

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

**NAKALA MURRY, Individually
And on behalf of her son,
A.M., a minor**

PLAINTIFFS

V.

CIVIL ACTION NO. 4:23cv-97-NBB-DAS

CITY OF INDIANOLA, MISSISSIPPI, et al.

DEFENDANTS

ORDER

This matter is before the court on the defendants' motion to quash the subpoena duces tecum served on the defendants. The plaintiff has filed no response.

The defendants are correct in their assertion that the service of a subpoena duces tecum is part of the discovery practice that can only begin after the discovery conference, which has not yet occurred in this case. Fed.R.Civ.P. 26 (d)(1)(A party may not seek discovery *from any source* before the parties have conferred as required by Rule 26(f), except in a proceeding exempted from initial disclosure under rule 26(a)(1)(B) or when authorized by these rules, by stipulation, or by court order.) The court therefore finds that the subpoena duces tecum has been prematurely issued and the motion to quash is granted.

While the court assumes that the documents and other things sought by the plaintiffs have been placed on a litigation hold or other steps taken to assure preservation of this evidence, but if not, counsel for the defendants are directed to, forthwith, take steps to assure preservation of this evidence.

Because the Chancery Clerk was also served with the subpoena duces tecum, it is not clear who is the custodian of this evidence. If the defendants are not the custodians of these

records, the court directs the parties to contact such custodian to obtain assurance of the preservation of this evidence. Alternatively they shall advise the court of the identity of the custodian.

SO ORDERED this the 26th day of July, 2023.

/s/ David A. Sanders

UNITED STATES MAGISTRATE JUDGE